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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/257,902	02/25/1999	STANLEY H. ZLOTKIN	VANZ-0011	3151
33721	7590	02/12/2004	EXAMINER	
TORYS LLP 79 WELLINGTON ST. WEST SUITE 3000 TORONTO, ON M5K 1N2 CANADA			GEORGE, KONATA M	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/257,902

Applicant(s)

ZLOTKIN, STANLEY H.

Examiner

Konata M. George

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51,52,54,55,57-59,61,63,66 and 67 is/are rejected.
- 7) ☐ Claim(s) 53,56,60,62,65 and 69-75 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/8/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 51-75 are pending in this application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on December 8, 2003 was noted and the submission is in compliance with the provisions of 37 CFR 1.97.

Accordingly, the examiner has considered the information disclosure statement.

Action Summary

2. The rejection of claims 51, 52, 54, 55, 57-59, 61, 63, 64, 66 and 67 under 35 U.S.C. 102(b) as being anticipated by Raymond is being maintained for the reasons stated in the previous office action.

Response to Arguments

3. Applicant's arguments filed December 8, 2003 have been fully considered but they are not persuasive.

Applicant argues that Raymond does not teach or suggest admixing the beadlets with an excipient. It is argued that Raymond is directed towards a tablet and that the claimed invention is directed towards adding the composition directly to food to be consumed by infants. It is the position of the examiner that the prior art does teach the claimed invention. The invention as claimed is directed to an article of manufacture consisting of a packaging material and a composition. The packaging material

Art Unit: 1616

according to the claim can be anything i.e. bottle, bag, etc. anything to hold the composition as applicant has not specified a particular packaging material. The composition contains microencapsulated iron in combination with an excipient and optionally a micronutrient. The prior art teaches a composition containing microencapsulated iron together with excipients i.e. dyes and sugars (col. 3, lines 25-40). With respect to applicants claim that the claimed invention is directed toward administering the composition to infants by depositing the composition onto food and the prior art is not, this is true, however, applicant is not claiming a method of administering the composition as such. Nowhere in the claims is a method of administering the compound; the claims are directed towards an article of manufacture.

Allowable Subject Matter

4. Claims 53, 56, 60, 62, 65 and 69-75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Telephone Inquiries

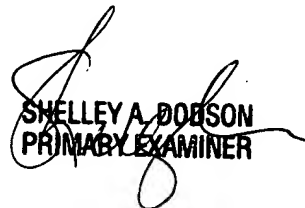
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 5:30PM Monday to Thursday, and on alternate Fridays.

Art Unit: 1616

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (571) 272-0602. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Konata M. George


SHELLEY A. DOBSON
PRIMARY EXAMINER